

## Revised Straw Proposals

Both proposals include these points, drawn from discussion:

1. Additional **costs of permitting are covered by applicant fees.**
2. The **requirement for Land Use Regulation Commission (LURC) rezoning would be eliminated in areas where wind power development is found to be an appropriate use.**  
The straw proposals differ in how they would achieve this objective (see attached descriptions).
3. **General environmental and energy benefits (reduction of CO<sub>2</sub>, air emissions, or contribution to meeting Regional Greenhouse Gas Initiative) would be taken into account in refining the states system for wind power siting. More specifically, general environmental and energy benefits would be articulated by the Legislature in statute to eliminate** the need to establish these general public benefits through evidence in each case (the straw proposals provide different mechanisms for considering project specific environmental and energy benefits).
4. **Uniform statewide permitting standards** and related information, submission requirements and study protocols, would be developed based on existing law and clarified as appropriate to wind power. If both LURC and the Department of Environment Protection (DEP) retain jurisdiction over some permitting, these statewide standards would be developed jointly by DEP and LURC. Procedural rules would also be harmonized.

**In developing these proposals, we also heard that a majority were leaning toward:**

1. All projects should meet minimum standards concerning some specific types of impacts (e.g., noise, soil erosion, water quality, impacts on bird/bat populations, rare and endangered plant/animal communities). Consistency with these standards should be evaluated on a site-specific basis in the permitting process.
2. Dual processes before two agencies (e.g., LURC rezoning and DEP or Site Board permitting) should be avoided whenever possible.
3. Refinements to the state's approach to reviewing proposed wind power development should be housed at an agency with extensive environmental permitting experience.

## **SUMMARY OF REVISED STRAW PROPOSALS**

### **Green Zone Proposal**

Under this proposal, the Legislature would:

- Establish a goal for wind power development in Maine (i.e., installation of a specified generation capacity by a date certain (Note: This could be a goal for the next few years to be revisited later).
- Direct expedited rulemaking by the Land Use Regulation Commission (LURC) and the Department of Environmental Protection (DEP) to establish Green Zones, portions of which could be in both organized and unorganized towns, where the following requirements would be waived:
  - LURC rezoning, and
  - “Fitting harmoniously into the natural environment” from a scenic perspective.

This rulemaking could be informed by expert panels on natural resource issues, as well as information on wind power potential (wind speeds, feasibility of tapping into transmission lines, etc.). More specifically, Green Zones would be identified to minimize potential impacts on rare and unique natural communities, exceptional scenic qualities, wildlife likely to be affected by fragmentation of existing unfragmented habitat, and/or remote recreational experience; while sized to meet the legislatively established goal for wind power development in Maine.

- Decision-making on individual permits could be left with LURC and DEP under existing law and rules, minus the rezoning and scenic impacts in the Green Zone, or decision-making for permits could be consolidated in DEP.
- Pine Tree Zone tax incentives could be provided for wind power development in the Green Zones (Note: Under current law, such incentives include waiver of state sales tax on construction materials for a set period, corporate income tax relief, and opportunity for Tax Increment Financing (TIF) based on employment provided).
- Efforts could be made to direct transmission lines to the Green Zones to facilitate wind power development by reducing costs.

### **Streamlined DEP-Based Proposal**

This straw proposal includes administrative streamlining at DEP and a process for considering both project benefits and impacts in decision-making on project permits.

As above, the legislation effectuating these changes could articulate the general benefits of wind power development, and a goal for wind power development in Maine.

	<b>Green Zone</b>	<b>Streamlined DEP-Based Process</b>
<b>Decision-makers</b>	As it is under current law, LURC in the unorganized territories and DEP in the organized – or alternatively, permitting consolidated in DEP.	DEP Commissioner makes permit decisions which are appealable to the Board of Environmental Protection (BEP) – or alternatively, a part-time professional three-person board, which functions when needed (persons with expertise in energy, wildlife/ecology, and resource conservation would be represented on the Appeals Board).
	LURC/DEP set Green Zones	LURC – designates areas where wind power is a permitted use.
<b>Staff; major agency roles</b>	<p>LURC and DEP would identify Green Zones where LURC rezoning and consideration of scenic impacts would not be required and where Pine Tree Zone tax incentives would be provided. Otherwise, responsibilities for permitting would be as they are today.</p> <p>The Department of Inland Fisheries &amp; Wildlife (DIFW), Department of Marine Resources (DMR) (coastal), and Department of Conservation (DOC) – review agencies.</p> <p>The Public Utilities Commission (PUC) works to site transmission lines to facilitate wind power development.</p> <p>Existing staff; applicant-funded consulting services as needed.</p>	<p>DEP – review, analysis, findings on environmental issues and project specific energy and environmental "public benefits"</p> <p>PUC – findings on energy issues.</p> <p>LURC – zoning/land use compatibility.</p> <p>DIFW, DMR (coastal), and DOC – review agencies with intervener status.</p> <p>Existing staff, plus two additional staff for DEP to analyze project-specific “public benefits” (paid for by permit fees); applicant-funded consulting services as needed.</p>
<b>Approval standards</b>	Requirements for LURC rezoning and consideration of scenic impacts in the Green Zone would be eliminated, otherwise the standards for approval would remain as they are today, except as needed to establish uniform statewide permitting standards for specific impacts as referred to earlier.	Existing laws and regulations (e.g., Site Law) supplemented to allow consideration of “public benefits.” Uniform statewide permitting standards for specific impacts would, as referred to earlier, be established.

<b>Consideration of public benefits</b>	General benefits articulated in legislation. Balancing of where the “public benefits” outweigh any potential adverse scenic impacts is accomplished in designating the Green Zones.	General benefits articulated in legislation. Decision-making includes environmental and energy considerations – the test would be that the advantages of the project are greater than its adverse impacts over the life of the project.
<b>Process overview</b>	As in existing law and rules (administrative streamlining at DEP could be included).	DEP Commissioner makes a decision within 185 days timeframe <sup>1</sup> if no hearing is held, or 270 days if a hearing is needed. Appeals to the BEP would be based on a record review with a 60 day time frame for appeal decisions.  Court appeals would go to the Law Court. A hearing, if any, would be held by the Commissioner pursuant to DEP rules.
<b>LURC zoning</b>	If the project is <u>in a Green Zone</u> within LURC jurisdiction, only a LURC permit is required (alternatively, DEP could be given permitting authority statewide).  If the project is <u>NOT in a Green Zone</u> , rezoning is required in addition to a permit from LURC. Or, a process could be established for requesting expedited review of areas as left out of Green Zone in error.	If the project is <u>in a zone where wind power is an allowable use</u> , a permit from DEP alone would be required.  If the project is <u>in a zone where wind power is NOT an allowable use</u> , rezoning by LURC is required in addition to a permit from DEP.
<b>Costs</b>	State costs of processing applications covered with application fees. Costs of expedited rulemaking covered by fees, or appropriation or other source.	State costs covered with application fees; start up appropriation (repaid with fees) for two added staff and appeals board members (if any).

Note: The “Green Zone” option does not include provisions for mitigation.

<sup>1</sup> Note: The 185 day or 270 day timeframe starts after a completed application has been accepted. Applicants are responsible for doing requisite studies for permitting – usually two years of bird/avian studies are preferred – before filing an application or negotiating alternative measures (e.g., mitigation) with the agencies.